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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,712	07/31/2003	Harold A. Olinger	66055-038-7	1596
25269	7590	07/02/2004	EXAMINER	
DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 1 STREET, NW WASHINGTON, DC 20005				HURLEY, SHAUN R
		ART UNIT		PAPER NUMBER
		3765		

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/630,712	OLINGER ET AL. <i>[Signature]</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shaun R Hurley	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 31 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,8-10,12-21,26-28,30-35 and 37-39 is/are rejected.
- 7) Claim(s) 4-7,11,22-25,29 and 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>07/31/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 8-10, 12-21, 26-28, 30-35, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasnick, Jr. et al (6240609) in view of Schwartz (6536200).

Rasnck teaches a multicolored effect yarn (Abstract) for use in carpet (Column 1, Field of the Invention) comprising a core consisting of two draw-textured 400-1400 denier BCF singles yarns (Example A) of differing colors (Example A) selected from the group of nylon 6 6, PET, or PP (Column 10, lines 9-22), each singles yarn individually air-jet entangled, then both yarns subsequently air-jet entangled together to form a zero twist structure (Figure 1), wherein the color may be gained by solution dying (Example A). Rasnick also teaches the process of manufacturing such a yarn. While Rasnick essentially teaches the invention as discussed above, he fails to specifically teach a wrapper yarn, which Schwartz teaches (Figure 2). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize a wrapper yarn in the structure of Rasnick, so as to protect the integrity of the multicolored effect yarn. The ordinarily skilled artisan would understand the importance of preventing the yarn of Rasnick from failing, and would have known to utilize a wrapper yarn, so as to keep the core structure intact. Likewise, it would have been obvious to utilize the either the same

or different materials for the wrapper yarn as compared to the singles yarns. Both are well known, either for conformity, reducing manufacturing costs, or for diversity, providing composite benefits from the differing materials. Schwartz also teach that the wrapper must have a denier less than that of the core, and as such, would obviously understand a denier of between 150-250, which would be less than the structure above which is 400-1400 denier. It is also noted that Applicant provides no sound reasoning for the specific denier of 150-250 other than to state that such a denier enables the wrapper yarn to provide a straight composite yarn, and contributes to the color of the yarn, both of which are achieved by the wrapper yarn of Schwartz (Figure 3 shows straight, Column 1 lines 39-43 shows ability to alter color).

In regards to the individual singles yarns being air-jet entangled at a higher rate than the composite structure, Rasnick teaches controlled entanglement, with adjustable sequencing and pressure (Column 7), and with the optional control, would have known to utilize such contrasting rates, so as to create a more speckled colored yarn rather than a blended color which would occur by over entanglement of the differently colored singles yarns together.

***Allowable Subject Matter***

3. Claims 4-7, 11, 22-25, 29, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Weiss (6085395), Flynn (6023926), Coons, III et al (5715584), Koyfman et al (5423859), Schwartz et al (4993218), Sheehan et al (Re 31376), Horiuchi et al (4365466), and Newton (Re 29352) all teach what is well known in the art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (703) 605-1236. The examiner can normally be reached on Mon - Fri, 6:30am - 3:00pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRH  
21 June 2004

  
JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700